

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22817 of 2018

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1. Sarwar Ali Khan Son of Late Mahfuj Ali Khan Resident of Mohalla-Shekhpora Kala, P.O.- Sasaram, P.S.- Sasaram (Town), District- Rohtas.
 2. Sadik Ali Khan, Son of Late Mahfuj Ali Khan Resident of Mohalla-Shekhpora Kala, P.O.- Sasaram, P.S.- Sasaram (Town), District- Rohtas.

... .. Petitioner/s

Versus

1. Noorjahan Beguam wife of Late Mahfuj Ali Khan, Resident of Mohalla-Karan Sarai, P.O.- Sasaram, P.S.- Sasaram (Town), District- Rohtas. **(since dead)**
(Expunged vide order dated 16.2.2023 passed in I.A. no. 1 of 2023)
2. Ruksan Khatoon, Daughter of Late Mahfuj Ali Khan and wife of Naushad Ali. Resident of Mohalla- Karan Sarai, P.O.- Sasaram, P.S.- Sasaram (Town), District- Rohtas.
3. Afsana Khatoon, Daughter of Late Mahfuj Ali Khan and wife of Parwezuddin Resident of Mohalla- Karan Sarai, P.O.- Sasaram, P.S.- Sasaram (Town), District- Rohtas.
4. Anwar Ali Khan, son of Late Mahfuj Ali Khan, Resident of Mohalla-Shekhpora Kala, P.O.- Sasaram, P.S.- Sasaram Town, District- Rohtas.
5. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajani Kant Singh, Advocate
For the State	:	M/s Sajid Salim Khan, SC 25
		Arif Daula Siddiqui, AC to SC 25
For the Respondent	:	M/s Abdul Mannan Khan
nos. 1, 2 and 3		Binay Kumar, Advocates

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

Date : 23-03-2023

Heard learned counsel for the parties.

The petitioners have filed the instant application for
the following relief(s):

“That the petitioners crave indulgence of this
Hon'ble Court for issuance of an appropriate writ
in the nature of Certiorari for quashing the order
and award dated 10.05.2012 passed by learned



Lok Adalat, Sasaram, District- Rohtas in Lok Adalat Case No.181D/2012 as contained in Annexure-2 which was obtained by respondent no. 4 by playing fraud and without impleading the petitioner as party in the suit and be further pleased to pass an order/orders, direction/direction declaring that the order and award dated 10.05.2012 passed by Lok Adalat Sasaram in Lok Adalat Case No.181D/2012 is illegal, null and void and not binding upon the petitioners.”

The case of the petitioner in brief is that the property in dispute has been fully described in paragraph 5 of the petition. The respondent no. 4, Anwar Ali Khan, who happens to be the full brother of the petitioners herein, by playing fraud, filed a case in the Lok Adalat, Sasaram, District Rohtas which was registered as Case no. 181D/2012 and a copy of the petition filed by respondent no. 4 is Annexure-1 to the writ petition. The respondent no. 4 deliberately chose not to make his mother or any of his brother or sisters as party to the said proceeding before the Lok Adalat and surreptitiously got an award passed which is under challenge in the instant writ application.

It is submitted that as per the award, the father of the petitioners herein is said to have entered into a compromise with the respondent no. 4 in the Lok Adalat and having gifted the property which is subject matter of the instant application.



Learned counsel for the petitioners submits that it is settled law that the Lok Adalats have no power to adjudicate. Further learned counsel relies on the judgment in the case of Nawal Kishore Prasad Singh & Ors. vs. The State of Bihar [2016 (1) PLJR 935] to submit that there has been categorical direction to all the Lok Adalats not to entertain property disputes involving contentious issues nor to record compromise in respect of such disputes. In support of his contention learned counsel further relies on the judgments passed in the case of State of Punjab and another vs. Jalour Singh and others [(2008) 2 SCC 660] and in the case of Kumari Sushmita & Ors. vs. Rabindra Kumar Singh & Ors. [2014 (2) PLJR 622].

Learned counsel appearing for the respondents submits that the facts not in dispute are that Late Mahuj Ali Khan was the father of both the petitioners and also the respondent no. 4. Referring to the annexures brought on record, it is submitted that there has been no adjudication by the Lok Adalat. The Lok Adalat has merely recorded the compromise entered into between the respondent no. 4 and his father. As such, it is submitted that there is no illegality in the action of the Lok Adalat. There is no merit in the instant application and the same be dismissed.



Having heard learned counsel for the parties and taking into consideration the averments on record, there is no doubt with respect to the legal position that the Lok Adalats have no adjudicatory or judicial function. The functions of Lok Adalat relate particularly to conciliation and must be based on compromise or settlement between the parties.

So far as the instant case is concerned, no doubt by the order impugned, only compromise has been recorded, however, at the same time it would be relevant to take note of the observation / direction of this Court in the case of **Nawal Kishore Prasad Singh & Ors. (supra)** which is to the following effect:-

“5. We regret that although there have been standing instructions not to entertain property disputes in Lok Adalats, the Lok Adalats in the State of Bihar have a tendency to receive property disputes in Lok Adalats and to record compromise that too at a pre-litigation stage.

6. In absence of proof of title to the property; of identity of the parties and the genuineness of the claims, no decree for title or partition or possession can be passed. The very stage of proving one's case is obliterated when one approaches the Lok Adalat.

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9. A direction is issued to all Lok Adalats not to entertain the property disputes or the disputes involving contentious issues in Lok Adalats and not to



record compromise in respect of such disputes, especially the property disputes. Violation of this direction will be treated as contempt of this Court.”

While quoting the above paragraphs from the order in the case of **Nawal Kishore Prasad Singh & Ors. (supra)**, it would be relevant to keep in mind that the award of the Lok Adalat under challenge here is dated 10.5.2012, whereas the above order is dated 27.11.2013.

Nevertheless, it would be relevant to take note of the fact that so far as the petitioners are concerned, they not having been party to the proceedings before the Lok Adalat, no notice having been issued to them and them not having been heard, the award of the Lok Adalat would not bind them. From the records of the case, it further transpires that the petitioners have already preferred Title Suit no. 651 of 2012 in the court of learned Sub Judge V, Sasaram, District Rohtas for a declaration that the order and award dated 10.5.2012 passed by the Lok Adalat in Case no. 181D/2012 impugned herein, has been obtained by the respondent no. 4 by playing fraud / misrepresentation on the petitioners and hence the award dated 10.5.2012 be declared illegal, null and void besides other reliefs.

The petitioner not being the party in the Lok Adalat will be at liberty to pursue the said suit, already preferred by



them, to its logical conclusion.

The writ application stands disposed of with the above observations and directions.

(Partha Sarthy, J)

Spd/-

AFR/NAFR	
CAV DATE	
Uploading Date	29.3.2023
Transmission Date	

